

Exhibit 39

Excerpts from the June 24, 2020

Deposition of Stephen Lanchak

REDACTED

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ORACLE USA, INC., a Colorado)
corporation; ORACLE AMERICAN,)
INC., a Delaware corporation;)
and ORACLE INTERNATIONAL)
CORPORATION, a California)
corporation,)

Plaintiffs,)

vs.) Case No.

) 2:10-cv-0106-LRH-PAL

RIMINI STREET, INC., a Nevada)
corporation; and SETH RAVIN,)
an individual,)

Defendants.)

VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF
STEPHEN LANCHAK
Wednesday, June 24, 2020
Volume I

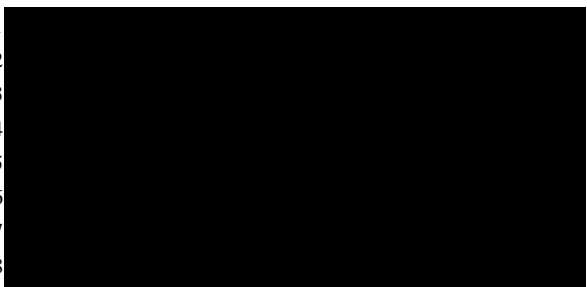
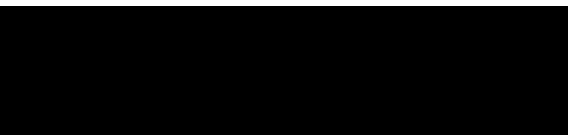
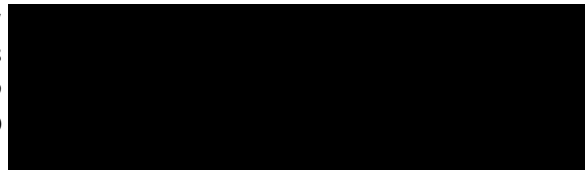
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Reported by:
CARLA SOARES
CSR No. 5908
Job No. 4135798
Pages 1 - 219

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1 name for the record? 10:05:27	1 also the hard copy is in front of me. 10:08:38
2 A My name is Steve Lanchak, L-A-N-C-H-A-K.	2 Q And is Exhibit 1865 your expert report in
3 Q And you understand that you are under	3 this case?
4 oath, and you need to testify truthfully just as if	4 A It is.
5 you're in a court of law? 10:05:41	5 Q And are the opinions expressed in this 10:08:53
6 A I do.	6 report still your opinions as of today?
7 Q Is there any reason why you can't testify	7 A They are.
8 accurately today?	8 Q Any changes or corrections?
9 A No.	9 A No.
10 Q And where are you located right now? 10:05:51	10 Q In paragraph 13 of your report, if you 10:09:07
11 A Located in Chicago, Illinois.	11 could get there --
12 Q Are you at the offices of Gibson Dunn?	12 A I'm there.
13 A No, I'm at the offices of Rimini Street.	13 Q -- you write, "I also incorporate by
14 Q Okay. And who is with you in the room?	14 reference my expert reports in Rimini Street, Inc.,
15 A Joe Gorman, Lisa DeBrosse Johnson, and 10:06:10	15 v. Oracle International Corp., et al., Case 10:09:24
16 Jenny.	16 No. 2:14-cv-1699 ('Rimini 2'), and the documents
17 Q And do you have any documents with you?	17 considered in connection with those reports."
18 A I have one document. My expert rebuttal	18 Do you see that?
19 report, dated March 13th.	19 A I do. If you don't mind, can I read
20 Q And does that document have any notes on 10:06:32	20 paragraph 13? 10:09:40
21 it?	21 Q Please.
22 A It does not.	22 A Okay.
23 Q And do you understand that you're not to	23 (Exhibit 1866 was marked for
24 communicate with counsel outside of the video record	24 identification and is attached hereto.)
25 in this case? 10:06:52	25 /// 10:10:25
Page 10	Page 12
1 A I do. 10:06:54	1 BY MR. HILL: 10:10:25
2 Q And do you understand that you're not to	2 Q So I've marked as Exhibit 1866 your expert
3 look at any documents other than what's presented	3 report dated May 4th, 2018.
4 before you as exhibits in this deposition?	4 Could you take a look at that?
5 A I do. 10:07:15	5 A I'm sorry. Can you repeat that? 10:10:33
6 MR. HILL: And Jenny, I guess I'll ask	6 Q Sure.
7 you, do you have the Exhibit Share up and running?	7 I've marked as Exhibit 1866 your expert
8 MS. TRYCK: I do.	8 report in Rimini II dated May 4th, 2018.
9 MR. HILL: Okay. So I'm going to mark --	9 A Let me get there.
10 let's see how this works. I'm going to mark as 10:07:46	10 Q Okay. 10:10:46
11 Exhibit 1865 your report, Mr. Lanchak.	11 A This was another exhibit that you put into
12 MS. TRYCK: And Zack, I assume it's okay	12 the queue?
13 if he looks at the hard copy, if it's easier for	13 Q Yes. Are you not seeing it there?
14 him, that's in front of him.	14 A Let me refresh.
15 MR. HILL: Sure. Yeah. But does he also 10:08:17	15 Q Yeah, I think you'll need to refresh every 10:11:08
16 have a screen that he can look at the exhibit that I	16 time, whenever there's a new exhibit.
17 just introduced?	17 A Okay. Yeah, I have 1866 up.
18 MS. TRYCK: Yes.	18 Q Okay. And is Exhibit 1866 your expert
19 THE WITNESS: Yes, I do.	19 report in Rimini II dated May 4th, 2018?
20 (Exhibit 1865 was marked for 10:08:24	20 A It is. 10:11:27
21 identification and is attached hereto.)	21 MR. HILL: And one more here.
22 BY MR. HILL:	22 (Exhibit 1867 was marked for
23 Q Okay. Mr. Lanchak, do you see -- are you	23 identification and is attached hereto.)
24 able to see Exhibit 1865?	24 BY MR. HILL:
25 A I do. I have it up on my computer, and 10:08:36	25 Q So I'm marking as Exhibit 1867 your 10:11:58
Page 11	Page 13

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<p>1 BY MR. HILL: 12:56:55</p> <p>2 Q Would it be a functional specification</p> <p>3 document or a technical specification document?</p> <p>4 MS. TRYCK: Objection. Lacks foundation.</p> <p>5 THE WITNESS: It could be a little bit of 12:57:09</p> <p>6 both.</p> <p>7 You know, when I say "broad specification</p> <p>8 document," it could have a functional component, it</p> <p>9 could have a technical component.</p> <p>10 BY MR. HILL: 12:57:20</p> <p>11 Q Does Rimini Street develop and test each</p> <p>12 of its TLR updates separately for each PeopleSoft</p> <p>13 customer?</p> <p>14 MS. TRYCK: Objection. Lacks foundation,</p> <p>15 calls for speculation, outside the scope. 12:57:36</p> <p>16 THE WITNESS: Can you repeat that</p> <p>17 question?</p> <p>18 BY MR. HILL:</p> <p>19 Q Yes.</p> <p>20 Does Rimini develop and test each of its 12:57:41</p> <p>21 TLR updates separately for each PeopleSoft customer?</p> <p>22 MS. TRYCK: Same objections. Also, asked</p> <p>23 and answered.</p> <p>24 THE WITNESS: Okay. I have not done a</p> <p>25 detailed analysis of Rimini's processes and how they 12:57:57</p> <p style="text-align: right;">Page 106</p>	<p>1 </p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 BY MR. HILL:</p> <p>10 Q You said it's common in the industry, so 12:59:48</p> <p>11 I'm wondering if you can identify any Rimini</p> <p>12 competitors that develop and test TLR updates in the</p> <p>13 way you've described.</p> <p>14 MS. TRYCK: Objection. Misstates</p> <p>15 testimony. 13:00:02</p> <p>16 THE WITNESS: From an industry</p> <p>17 perspective, I would assume that most would do it</p> <p>18 that way.</p> <p>19 I mean, let me put it this way: I can't</p> <p>20 imagine any one of Rimini's competitors actually 13:00:13</p> <p>21 creating, testing, and implementing a TLR update</p> <p>22 from scratch at each specific instance. That would</p> <p>23 be ludicrous, and not practical from a business</p> <p>24 perspective.</p> <p>25 /// 13:00:33</p> <p style="text-align: right;">Page 108</p>
<p>1 do it and what they do or don't do to really give 12:58:01</p> <p>2 you a precise answer on that.</p> <p>3 I can tell you -- I can answer that from</p> <p>4 an industry perspective.</p> <p>5 BY MR. HILL: 12:58:16</p> <p>6 Q Okay. Please do.</p> <p>7 A Can you ask me the question again just to</p> <p>8 make sure I get it right?</p> <p>9 Q Well, I guess, in the industry, is it</p> <p>10 common to develop and test each TLR update 12:58:26</p> <p>11 separately for each PeopleSoft customer?</p> <p>12 MS. TRYCK: Objection. Vague.</p> <p>13 THE WITNESS: Well, what is common in the</p> <p>14 industry is to take an instance where you may have</p> <p>15 created it the first time, and taking that know-how 12:58:47</p> <p>16 or those -- that information, that knowledge that</p> <p>17 you've gained, putting that into a spec and reusing</p> <p>18 that spec in subsequent engagements or customers.</p> <p>19 That is something that the industry would view as</p> <p>20 something you would do. 12:59:08</p> <p>21 BY MR. HILL:</p> <p>22 </p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 107</p>	<p>1 BY MR. HILL: 13:00:34</p> <p>2 Q What do you mean -- sorry. Go ahead.</p> <p>3 A Leveraging the know-how, the experience</p> <p>4 and knowledge you have on Company A, and reusing</p> <p>5 that knowledge and capabilities at subsequent 13:00:45</p> <p>6 companies, that is what you would do.</p> <p>7 </p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 Q So you said it would be ludicrous and not</p> <p>13 practical from a business perspective to do it that</p> <p>14 way, and that's because it would just be too</p> <p>15 expensive? 13:01:19</p> <p>16 MS. TRYCK: Objection. Misstates</p> <p>17 testimony.</p> <p>18 THE WITNESS: Well, what I'd tell you is</p> <p>19 no customer that I have ever worked with before</p> <p>20 would ever pay for that. 13:01:29</p> <p>21 BY MR. HILL:</p> <p>22 Q Why not?</p> <p>23 A It would be way too expensive. They'd</p> <p>24 say, "Steve, you've done this many times before.</p> <p>25 I'm not asking you to do anything unique. Why are 13:01:45</p> <p style="text-align: right;">Page 109</p>

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1 you charging me so much?" 13:01:48	1 currently do or don't do at this point in time. But 13:03:59
2 "Well, Mr. Client, I've got to charge you	2 they did support PeopleSoft back when -- you know,
3 this much because I'm creating everything from	3 in the time frame that this pertains to.
4 scratch."	4 BY MR. HILL:
5 "Well, Steve, that's pretty stupid. You 13:01:56	5 Q But you don't know if they still do? 13:04:11
6 shouldn't be doing that. I mean, why don't you	6 A I personally have not kept up with
7 reuse -- I'm paying you and your team a lot of money	7 CedarCrestone specifically so I can't comment one
8 to reuse what's in your heads, what you've learned	8 way or the other.
9 from your previous engagements. I'm not going to	9 Q Do you know if CedarCrestone creates TLR
10 pay you to redevelop something from scratch." 13:02:12	10 updates for any Oracle products? 13:04:26
11 That's an example of the conversation, an	11 MS. TRYCK: Objection. Vague, asked and
12 imaginary conversation, than one would have along	12 answered.
13 those lines.	13 THE WITNESS: Yeah, I'd have to look into
14 Q So is it your opinion that if Rimini were	14 that to be able to say with any specificity.
15 to develop and test each of its TLR updates 13:02:24	15 MR. HILL: Steve and Jenny, I know it's 13:04:46
16 separately for each customer, that it couldn't	16 1:00 o'clock your time. Did you guys have a lunch
17 provide that service at 50 percent of Oracle's	17 plan? How do you want to do that?
18 costs?	18 MS. TRYCK: Yeah, we can take lunch now,
19 MS. TRYCK: Objection. Incomplete	19 if that's okay with you.
20 hypothetical, calls for speculation, vague, 13:02:38	20 MR. HILL: Yeah, that's fine with me. 13:04:55
21 ambiguous.	21 MS. TRYCK: How long do you want to take?
22 THE WITNESS: Well, you get into specifics	22 20, 30 minutes maybe?
23 around 50 percent of costs. I mean, that's a whole	23 MR. HILL: So back at 11:35, or 1:35 your
24 other topic.	24 time?
25 But it just wouldn't make sense from the 13:02:52	25 MS. TRYCK: Yeah, that's great. 13:05:07
Page 110	Page 112
1 standpoint of the industry, for someone in the 13:02:54	1 MR. HILL: Okay. 13:05:09
2 industry to purchase that type of service. It would	2 THE VIDEO OPERATOR: The time is
3 be a nonstarter for any type of contract	3 1:05 p.m., and we are off the record.
4 negotiation, I would think.	4 (Recess, 1:05 p.m. - 1:41 p.m.)
5 BY MR. HILL: 13:03:07	5 THE VIDEO OPERATOR: The time is 13:41:19
6 Q Is CedarCrestone in the industry?	6 1:41 p.m., and we are back on the record.
7 A I'm sorry. Say again.	7 (Exhibit 1870 was marked for
8 Q Is CedarCrestone in the industry?	8 identification and is attached hereto.)
9 A Is CedarCrestone in the industry?	9 BY MR. HILL:
10 Q Yes. 13:03:25	10 Q Mr. Lanchak, I have marked as Exhibit 1870 13:41:30
11 MS. TRYCK: Objection. Vague.	11 Ms. Frederiksen-Cross's expert report in this case.
12 THE WITNESS: I don't understand.	12 Could you pull that up?
13 BY MR. HILL:	13 A Okay. Give me a moment. All right. I
14 Q Well, you reference the industry in your	14 have it up.
15 report, right? And I'm wondering if CedarCrestone 13:03:30	15 Q And is this Ms. Frederiksen-Cross's 13:41:53
16 is included in that industry.	16 report?
17 MS. TRYCK: Objection. Vague, lacks	17 A Give me a moment. Yes.
18 foundation.	18 Q And this is the report that your rebuttal
19 THE WITNESS: CedarCrestone is a part of	19 report is responding to, correct?
20 that Oracle ecosystem. 13:03:41	20 A That is correct. 13:42:26
21 BY MR. HILL:	21 Q Could you turn to paragraph 185 of
22 Q Does CedarCrestone support Oracle	22 Exhibit 1870, which is on page 62?
23 PeopleSoft?	23 A Give me a moment.
24 MS. TRYCK: Objection. Vague.	24 MS. TRYCK: Sorry, Zack. Can you tell me
25 THE WITNESS: I can't comment on what they 13:03:57	25 again what paragraph that was? 13:42:50
Page 111	Page 113

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<p>1 JD Edwards open code? 15:45:33</p> <p>2 MS. TRYCK: Objection. Vague, calls for a</p> <p>3 legal conclusion, improper hypothetical.</p> <p>4 THE WITNESS: Again, as I said -- and I'll</p> <p>5 read from my report again -- "Indeed, it would be 15:45:44</p> <p>6 impracticable (and effectively impossible) to use,</p> <p>7 maintain, or support JDE software in a meaningful</p> <p>8 way without accessing the JDE open code."</p> <p>9 BY MR. HILL:</p> <p>10 Q And do you include break/fix support in 15:46:00</p> <p>11 the definition of "support" in that sentence?</p> <p>12 A I do.</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p> <p style="text-align: right;">Page 182</p>	<p>1 Q In your understanding, is a RAM copy of 15:48:36</p> <p>2 JD Edwards software created when a service provider</p> <p>3 operates JD Edwards in a customer environment?</p> <p>4 MS. TRYCK: Objection. Vague.</p> <p>5 THE WITNESS: In my view from an industry 15:48:51</p> <p>6 perspective, you're creating RAM copies every time</p> <p>7 you basically turn on the software.</p> <p>8 BY MR. HILL:</p> <p>9 Q What is your understanding of the term</p> <p>10 "break/fix support"? 15:49:24</p> <p>11 MS. TRYCK: Objection. Vague.</p> <p>12 THE WITNESS: Can you give me a little</p> <p>13 more context for that question?</p> <p>14 BY MR. HILL:</p> <p>15 Q Yeah, just the term "break/fix 15:49:35</p> <p>16 support," does that mean anything to you?</p> <p>17 A Yeah, it does.</p> <p>18 Q What does it mean?</p> <p>19 A Well, it's pretty evident from the</p> <p>20 terminology. 15:49:45</p> <p>21 So you have a particular bug in the</p> <p>22 system. Something's not working. You call your</p> <p>23 service provider. They've got to get back to you in</p> <p>24 a certain time frame, and they work with you to</p> <p>25 create a remedy for that particular bug. 15:50:06</p> <p style="text-align: right;">Page 184</p>
<p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 BY MR. HILL:</p> <p>15 Q KPMG was an Oracle partner when you worked 15:48:08</p> <p>16 there, correct?</p> <p>17 A Yes, it was.</p> <p>18 Q And same for BearingPoint?</p> <p>19 A You said an Oracle partner?</p> <p>20 Q Yes. 15:48:20</p> <p>21 A That's correct.</p> <p>22 Q And same for MarketSphere?</p> <p>23 A Correct.</p> <p>24 Q Same for HCL AXON?</p> <p>25 A Correct. 15:48:30</p> <p style="text-align: right;">Page 183</p>	<p>1 Q And would break/fix support be possible 15:50:11</p> <p>2 for JD Edwards without the support provider loading</p> <p>3 a RAM copy of the JD Edwards software?</p> <p>4 MS. TRYCK: Improper hypothetical, vague,</p> <p>5 calls for a legal conclusion. 15:50:25</p> <p>6 THE WITNESS: It's hard for me to imagine,</p> <p>7 as I said before, any level of support being</p> <p>8 provided without, you know, creating a RAM copy of</p> <p>9 the software.</p> <p>10 BY MR. HILL: 15:50:46</p> <p>11 Q What about just phone support, over the</p> <p>12 phone? Would that be possible?</p> <p>13 A Let's take a step back.</p> <p>14 So customers all have unique environments.</p> <p>15 They all have their own unique business 15:51:04</p> <p>16 requirements. So all of their instances of the</p> <p>17 application are unique to a certain extent.</p> <p>18 So if something breaks, you're not going</p> <p>19 to know what exactly is creating that break, that</p> <p>20 problem, unless you can get in and see what is going 15:51:23</p> <p>21 on.</p> <p>22 You just can't assume that, hey, they've</p> <p>23 implemented, let's say, JD Edwards right out of the</p> <p>24 box. I've got my box copy. I can look at that.</p> <p>25 I -- you know, I don't need to get into their system 15:51:39</p> <p style="text-align: right;">Page 185</p>

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1 their computer? 15:57:21	1 What I'm saying is the industry would read 16:01:02
2 Q Yes.	2 that particular paragraph in the injunction and
3 A Okay. Yeah, that -- I mean, why would	3 would understand it to pertain to the creation of
4 anyone buy that?	4 unlicensed instances of Oracle database.
5 Q So is it your view from the industry 15:57:32	5 BY MR. HILL: 16:01:25
6 perspective that no one would buy that?	6 Q And what is that -- what is -- your
7 A That's --	7 opinion of the industry's view on an interpretation
8 MS. TRYCK: Objection. Vague, lacks	8 of that term "reproduction," what is that based on?
9 foundation.	9 MS. TRYCK: Objection. Misstates the
10 THE WITNESS: That's my perspective, that 15:57:41	10 testimony, lacks foundation, calls for a legal 16:01:35
11 that would be a service that would be devalued in	11 conclusion.
12 the industry. Because you're using the resources	12 THE WITNESS: It's based on my many years
13 and the time of that individual that, you know, is	13 in the industry. 18 years working with Oracle
14 having to be there doing all the work with, you	14 products, including, obviously, Oracle database.
15 know, the service provider just, you know, remotely. 15:58:03	15 BY MR. HILL: 16:01:53
16 It just doesn't get the job done.	16 Q And so in your experience, no one in the
17 BY MR. HILL:	17 industry used the term "reproduction" to refer to
18 Q Let's talk about Oracle database now.	18 anything other than creation of unlicensed instances
19 If you could turn to paragraph 26 of your	19 of Oracle database?
20 report, please. 15:58:26	20 MS. TRYCK: Misstates the document, 16:02:04
21 A All right. Give me a moment. Okay.	21 misstates the testimony.
22 Q Do you see the last sentence of	22 THE WITNESS: Yeah, that's, you know, not
23 paragraph 26 of your report where it says, "My	23 what I'm saying.
24 opinion is that the industry would understand a	24 Let's talk about what this entire
25 prohibition on 'reproduction' to pertain to the 15:59:42	25 paragraph really addresses, and that was Barbara 16:02:13
Page 190	Page 192
1 creation of unlicensed instances of Oracle database, 15:59:46	1 Frederiksen-Cross opinion that Rimini's processes 16:02:19
2 and not the creation of in-memory copies"?	2 violate the injunction each time Rimini would
3 Do you see that?	3 develop or test a software update that involved
4 A I do. That wasn't the full sentence, by	4 Oracle database, because doing so necessarily --
5 the way. I mean, there was a preface to that. 16:00:05	5 well, invokes Oracle database. 16:02:36
6 Q Okay.	6 The database layer and the application
7 A You read from the comma.	7 layer are inextricably linked. So every time you're
8 Q So what is the industry understanding of	8 using the application, you know, you're creating a
9 that term "reproduction"?	9 RAM copy of the database and inserting or, you know,
10 MS. TRYCK: Objection. The document 16:00:24	10 removing data from the database. 16:02:59
11 speaks for itself.	11 So just -- it's sort of a nonsensical
12 THE WITNESS: Well, it really says very	12 perspective on reproduction is my point.
13 clearly it pertains to the creation of unlicensed	13 BY MR. HILL:
14 instances of Oracle database.	14 Q Okay. So could you look at paragraph 15
15 So the keyword there is "instances." 16:00:37	15 of Exhibit 1869, the injunction? 16:03:19
16 BY MR. HILL:	16 A Give me a moment.
17 Q So the industry's understanding of the	17 My document is blank.
18 term "reproduction" as it's used in the injunction	18 MS. TRYCK: Maybe refresh it.
19 is -- only applies to reproduction of unlicensed	19 THE WITNESS: Okay. There it is. Okay.
20 instances of Oracle database; is that correct? 16:00:52	20 All right. I'm there. 16:03:57
21 A Well --	21 BY MR. HILL:
22 MS. TRYCK: Misstates the document,	22 Q And do you see it says, "Rimini Street
23 misstates the testimony.	23 shall not reproduce, prepare derivative works from,
24 THE WITNESS: That's not quite what I	24 or distribute Oracle database software"?
25 said. 16:01:01	25 A I see that. 16:04:07
Page 191	Page 193

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1 Q So then taking your statement from 16:04:11	1 was really dealing with what Frederiksen-Cross had 16:06:32
2 paragraph 26 of your expert report, am I correct	2 been opining about regarding the creation of
3 that your view is that the industry interprets the	3 in-memory copies.
4 term "reproduce" there as applying only to the	4 BY MR. HILL:
5 creation of unlicensed instances of Oracle database? 16:04:30	5 Q Right. And she says that the creation of 16:06:49
6 MS. TRYCK: Misstates the document,	6 in-memory copies would violate paragraph 15 of the
7 misstates the testimony, misstates his expert	7 injunction, correct?
8 report.	8 MS. TRYCK: Objection. Calls for
9 THE WITNESS: Yeah. What I would say --	9 speculation, the document speaks for itself.
10 let me read the entire sentence because I think it's 16:04:44	10 THE WITNESS: I'm sorry. Say that again. 16:07:02
11 important.	11 BY MR. HILL:
12 "Based on my decades of experience in the	12 Q Ms. Frederiksen-Cross's opinion is that
13 field and the materials I've reviewed in this	13 paragraph 15 of the injunction prohibits the
14 proceeding and in Rimini II, my opinion is that the	14 creation of in-memory copies of Oracle database,
15 industry would understand a prohibition on 16:04:56	15 right? 16:07:16
16 reproduction to pertain to the creation of	16 MS. TRYCK: Same objections.
17 unlicensed instances of Oracle database and not the	17 THE WITNESS: The best as I understand it.
18 creation of in-memory copies."	18 BY MR. HILL:
19 That's what I'm saying.	19 Q And your view is that
20 BY MR. HILL: 16:05:13	20 Ms. Frederiksen-Cross is incorrect on that, correct? 16:07:24
21 Q So is there anything other than the	21 A That is correct.
22 creation of unlicensed instances of Oracle database	22 Q Okay. And so what I want to know from you
23 that paragraph 15 would apply to under the industry	23 is, what does paragraph 15 apply to? If it doesn't
24 interpretation?	24 apply to the creation of in-memory copies of Oracle
25 MS. TRYCK: Objection. Calls for a legal 16:05:24	25 database, what does it apply to? 16:07:42
Page 194	Page 196
1 conclusion. 16:05:25	1 MS. TRYCK: Objection. Asked and 16:07:44
2 THE WITNESS: Yeah, I'm not here to make	2 answered, calls for a legal conclusion, outside the
3 that kind of legal judgment. I'm really responding	3 scope.
4 to what Barbara Frederiksen-Cross had opined about	4 THE WITNESS: Yeah, I'm not here to
5 in her report about in-memory copies, RAM copies. 16:05:40	5 interpret that paragraph and say what it does, you 16:07:49
6 And the industry would look at	6 know, respond to or pertain to.
7 paragraph 15 and not ever believe that that pertains	7 I'm responding to Barbara
8 to in-memory copies.	8 Frederiksen-Cross's report, which she opines about,
9 BY MR. HILL:	9 which is specifically around the creation of those
10 Q But it is your opinion that the industry 16:05:56	10 in-memory copies of Oracle database. 16:08:05
11 would look at that and interpret it to apply to the	11 MS. TRYCK: Hey, Zack, whenever you're
12 creation of unlicensed instances of Oracle database,	12 done, we've been going for about an hour.
13 right?	13 MR. HILL: Yeah, let me check here.
14 MS. TRYCK: Objection. The documents	14 Yeah, we can break.
15 speak for themselves, asked and answered. 16:06:08	15 MS. TRYCK: Great. 16:08:42
16 THE WITNESS: Well, yeah. I mean, I read	16 THE VIDEO OPERATOR: The time is
17 that sentence in my -- in my report.	17 4:08 p.m., and we are off the record.
18 BY MR. HILL:	18 (Recess, 4:08 p.m. - 4:29 p.m.)
19 Q Right. So what I'm asking is, is there	19 THE VIDEO OPERATOR: The time is
20 anything else other than the creation of unlicensed 16:06:17	20 4:29 p.m., and we are back on the record. 16:29:25
21 instances of Oracle database that the industry would	21 BY MR. HILL:
22 interpret paragraph 15 to apply to?	22 Q Mr. Lanchak, when a user of ERP software
23 MS. TRYCK: Objection. Outside the scope.	23 running on Oracle database operates the software,
24 THE WITNESS: Yeah, that's not something	24 they create a RAM copy of Oracle database, correct?
25 that was within the scope of my report. My report 16:06:29	25 MS. TRYCK: Objection. Vague. 16:29:43
Page 195	Page 197

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1 THE WITNESS: Well, what I'd say is I 16:29:49	1 document, misstates the testimony, vague. 16:32:46
2 don't think they create it. I think it's	2 THE WITNESS: Well, I would believe that
3 automatically created by the application.	3 if it was such a large issue, it would have been,
4 BY MR. HILL:	4 you know, contested at that time.
5 Q Okay. Could you look at paragraph 89 of 16:29:57	5 I mean, everyone knows about RAM copies. 16:33:03
6 your expert report, please?	6 That's no secret. So the fact that it's coming up,
7 A Give me a moment to review it. Okay.	7 you know, in this particular closed trial proceeding
8 Q In paragraph 89 of your expert report,	8 was just curious to me.
9 Exhibit 1865, in the first sentence you write,	9 BY MS. TRYCK:
10 "Based on my review of records in Rimini I, I 16:30:59	10 Q And how did you determine that it wasn't 16:33:25
11 understand that Oracle did not contend that RAM	11 contested earlier in Rimini I?
12 copies of Oracle database constituted copyright	12 A I looked at a lot of records, again, in my
13 infringement."	13 "Materials Reviewed" list. And everything that I
14 Do you see that?	14 looked at regarding Rimini I did not seem to address
15 A I do. 16:31:10	15 RAM copies of Oracle database. 16:33:49
16 Q And how does that fact inform your opinion	16 Q Mr. Lanchak, could you please turn back to
17 as to how the industry would interpret the	17 the injunction, Exhibit 1869?
18 injunction?	18 A Okay. I'm there.
19 MS. TRYCK: Objection. Vague, misstates	19 Q And could you look at paragraph 3 of the
20 the document. 16:31:22	20 injunction, please? 16:34:17
21 THE WITNESS: So can you tell me more	21 A I see it.
22 about what you mean by how does that inform my	22 Q And what, if any, third-party support
23 opinion?	23 provider practice is prohibited by paragraph 3 of
24 BY MR. HILL:	24 the injunction?
25 Q No. I just mean generally, what effect 16:31:31	25 MS. TRYCK: Objection. Calls for a legal 16:34:38
Page 198	Page 200
1 does that fact have on your opinion? How does it -- 16:31:34	1 conclusion, outside the scope, vague. 16:34:40
2 how does it have any effect in shaping your opinion?	2 THE WITNESS: What specifically are you
3 MS. TRYCK: Same objection.	3 asking me there?
4 BY MR. HILL:	4 BY MR. HILL:
5 Q Or does it? 16:31:42	5 Q I'm asking, in your opinion as an industry 16:34:49
6 A Well, the fact that it wasn't an issue at	6 expert, what, if any, third-party support provider
7 that time does factor into, you know, my assessment.	7 practice, any practice, is prohibited by paragraph 3
8 But I'll point you to my many years	8 of the injunction?
9 working with Oracle products and with Oracle itself,	9 MS. TRYCK: Objection. Same objections.
10 and really, it's all an aggregate that really, you 16:32:07	10 Also, outside the scope. 16:35:04
11 know, leads me to the conclusions in my report.	11 THE WITNESS: Let's talk a little bit
12 Q And how does it factor into your	12 about the scope of my report.
13 assessment?	13 So my report was focused on many of the
14 MS. TRYCK: Objection. Vague, asked and	14 opinions that Barbara Frederiksen-Cross had
15 answered. 16:32:24	15 regarding PeopleSoft specifically around, you know, 16:35:20
16 THE WITNESS: I don't understand what you	16 cloud hosting and the so-called cross-use, and
17 mean by "how does it factor in." What does that	17 providing my industry perspective on those opinions.
18 mean?	18 That's my scope.
19 BY MR. HILL:	19 So I really, you know, don't have -- I
20 Q Well, you said the fact that Oracle hadn't 16:32:31	20 mean, it's not within my scope to answer your 16:35:43
21 contended that RAM copies constituted copyright	21 question. I don't really even understand your
22 infringement previously in Rimini I factored into	22 question as you asked it.
23 your assessment, and I'm wondering how it factored	23 BY MR. HILL:
24 into your assessment.	24 Q I'm asking, from your industry
25 MS. TRYCK: Objection. Misstates the 16:32:46	25 perspective, looking at paragraph 3 of the 16:35:55
Page 199	Page 201

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing transcript is
11 a true record of the testimony given.

12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [X] was [] was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or any party to this action.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21 Dated: this 29 day of June, 2020.

22 Carla Soares

23
24 CARLA SOARES

25 CSR No. 5908